

By: Nevárez

H.B. No. 2369

Substitute the following for H.B. No. 2369:

By: Larson

C.S.H.B. No. 2369

A BILL TO BE ENTITLED

AN ACT

relating to municipal fees charged to public school districts for water and sewer service.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The legislature finds that the imposition of fees for water service that are based on the number of students or employees of a public school district diverts to other purposes money appropriated in accordance with Section 1, Article VII, Texas Constitution, for the education of students. For that reason, the imposition of fees on those bases by a political subdivision violates the Texas Constitution.

SECTION 2. The heading to Section 13.044, Water Code, is amended to read as follows:

Sec. 13.044. RATES CHARGED BY MUNICIPALITY TO CERTAIN SPECIAL DISTRICTS [~~DISTRICT~~].

SECTION 3. Subchapter C, Chapter 13, Water Code, is amended by adding Section 13.0441 to read as follows:

Sec. 13.0441. FEES CHARGED BY MUNICIPALITY TO PUBLIC SCHOOL DISTRICTS. (a) This section applies only to fees charged by a municipality for water or sewer service to a public school district.

(b) Notwithstanding the provisions of a resolution, ordinance, or agreement, a public school district charged a fee that violates Section 13.088 may appeal the charge by filing a

1 petition with the utility commission. The utility commission shall
2 hear the appeal de novo, and the municipality charging the fee has
3 the burden of proof to establish that the fee complies with Section
4 13.088. The utility commission shall fix the fees to be charged by
5 the municipality in accordance with this chapter, including Section
6 13.088.

7 SECTION 4. Subchapter D, Chapter 13, Water Code, is amended
8 by adding Section 13.088 to read as follows:

9 Sec. 13.088. MUNICIPAL FEES FOR PUBLIC SCHOOL DISTRICTS. A
10 municipally owned utility that provides retail water or sewer
11 utility service to a public school district may not charge the
12 district a fee based on the number of district students or employees
13 in addition to the rates the utility charges the district for the
14 service.

15 SECTION 5. (a) This section applies only to a public
16 school district that, after September 1, 2009, was charged a fee for
17 retail water or sewer utility service based on the number of
18 district students or employees in addition to the rates charged for
19 the service.

20 (b) Notwithstanding any other law or agreement, on the
21 petition of a public school district, the Public Utility Commission
22 of Texas shall evaluate a fee for retail water or sewer utility
23 service charged by a municipally owned utility to the district
24 after September 1, 2009, to determine whether the fee complies with
25 Section 13.088, Water Code, as added by this Act.

26 (c) If the Public Utility Commission of Texas determines
27 under Subsection (b) of this section that the fee does not comply

1 with Section 13.088, Water Code, as added by this Act, the
2 commission:

3 (1) shall fix or eliminate the fees to be charged by
4 the municipally owned utility in accordance with Section 13.088,
5 Water Code, as added by this Act;

6 (2) shall establish the original effective date of the
7 fee that does not comply with Section 13.088, Water Code, as added
8 by this Act, based on information submitted by the municipally
9 owned utility;

10 (3) by order shall require the municipally owned
11 utility to refund to the public school district money collected
12 from the fee described by Subdivision (2) of this subsection in
13 excess of the fee fixed under Subdivision (1) of this subsection;
14 and

15 (4) may allow the public school district to recover
16 from the municipally owned utility any reasonable expenses incurred
17 by the district in the process of submitting a petition under this
18 section.

19 (d) This section expires and a public school district may
20 not submit a petition under this section after September 1, 2020.

21 SECTION 6. This Act takes effect immediately if it receives
22 a vote of two-thirds of all the members elected to each house, as
23 provided by Section 39, Article III, Texas Constitution. If this
24 Act does not receive the vote necessary for immediate effect, this
25 Act takes effect September 1, 2017.